

Filed for intro on 02/01/95
House Bill _____
By _____

Senate Bill No.SB0262
By Holcomb

AN ACT to enact the Parent and Teacher Empowerment Act of 1995, and to amend and repeal provisions of Tennessee Code Annotated, Title 49, accordingly.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Title. This act shall be known and may be cited as the "Parent and Teacher Empowerment Act of 1995."

SECTION 2. Definitions. As used herein, the terms "Local Education Agency" (LEA), "local board of education" and "local school board" shall be interchangeable. The terms "district" and "local school district" shall mean the physical area in which an LEA has been established by public or private act. As used herein, where applicable, the term "parents" shall be deemed to include a single parent having custody of a child or guardian(s) of a child. As used herein, except in Section 4(a), the term "public schools" shall include all charter schools. Unless the context clearly indicates otherwise, the term "schools" shall mean "public schools". The pronoun "he" shall refer to children of both sexes.

SECTION 3. Autonomous Schools.

(a) During October and November, 1994, each local school board, with the assistance of the county election commission of the county in which it is situated, shall

conduct an election at each school under its supervision to elect a council that will become the governing body of the school in accordance with the provisions of this Act, but which shall operate only in a preparatory mode until July 1, 1993, when it shall assume governance of the school. Initially, the council will consist of seven (7) members: the principal of the school (ex officio), four (4) teachers elected by the faculty of the school and two (2) parents or citizens elected by the parents of students then enrolled at the school. Thereafter, the council will be self-perpetuating unless it chooses to change its bylaws.

(b) After July 1, 1996, except for certain state regulations set forth in subsection (d) below, each council will be autonomous in the operation of its school and may have complete independence from the local school board. A council may agree with the local school board to continue their previous relationship, or it may gradually or quickly convert to autonomous or partially autonomous operation.

(c) The state board of education, as set forth in Section 16, will suggest model bylaws for the operation of school councils. These model bylaws will not be binding upon the councils. Each council will be responsible for the governance of its school. Its duties and powers shall include:

- (1) Determining the governing structure of the school;
- (2) Setting personnel policies and compensation, provided that policies regarding teachers may not contravene the provisions of Section 12.
- (3) Providing for the day-to-day operation of the school;
- (4) Setting budgets for the school;
- (5) Establishing academic standards, graduation requirements and curriculum requirements beyond the core curriculum;
- (6) Determining textbooks, grade levels, class sizes, teaching methods and other operational policies;
- (7) Fielding athletic teams;

(8) Establishing admissions policies in accordance with Section 8;
and

(9) Establishing disciplinary and expulsion policies.

(d) The council may purchase any of these services from the local school board or other providers.

(e) Public schools must observe the following restrictions:

(1) No tuition may be charged;

(2) A core curriculum of instruction (sometimes referred to hereinafter as "the core curriculum"), including English, mathematics, history, science and geography, must be offered adequate to ensure minimum performance on required competency tests. The state board of education may establish reasonable exceptions from this requirement for vocational schools and special education schools;

(3) Each school must admit its share of those students not admitted voluntarily by any school, in accordance with Section 15;

(4) Each school will be subject to state review of its financial accounting and of the accuracy of information disseminated regarding its program and performance;

(5) Each school must participate in statewide assessment of the progress of its students in the core curriculum as set forth in Section 17;

(6) Compliance with health and safety standards is required;

(7) Religious instruction is prohibited;

(8) Each school must publish certain information regarding its curriculum, teachers, student performance, and finances for use by parents in choosing schools as set forth in Section 15;

(9) Each school must hold classes for at least one hundred eighty (180) days per year; and

(l0) No school may recruit students based on athletic ability.

(f) Upon election, each school council shall enter into a standard contract with the local school board that shall require the school to operate permanently as a not-for-profit public school corporation, set forth assumption of liability by the school, require certain insurance coverage and provide for annual financial audits. The contracts shall become effective July 1, 1996. Neither these contracts nor anything else in this act shall prevent or be construed to prevent public schools from merging with one another or prevent a public school from dividing into more than one school.

(g) Each school shall seek from the Internal Revenue Service status as a charitable corporation organized and operating under the provisions of Internal Revenue Code Section 501(c)3 and shall establish bylaws and policies designed to achieve such status.

SECTION 4. Charter Schools.

(a) Beginning in the 1995-1996 school year, groups of teachers and others who meet certain minimum criteria set forth in subsection (b) below may petition the state board of education, in accordance with regulations to be promulgated by the state board, to establish a public school (referred to sometimes hereinafter as a "charter school"). If the board shall approve the petition, it shall enter into a three-year renewable contract with the charter school. Except that charter schools must renew their contracts with the state board of education every three years, charter schools will have the same powers as and will be subject to the same regulations applicable to public schools and will receive funds on the same basis.

(b) Organizers of charter schools may include groups of teachers, community and charitable organizations or parent groups. To be eligible for a contract with the state board of education, an organizing group must meet the following criteria:

(1) Establish a location for the school that meets health and fire standards established by the board;

(2) Demonstrate financial viability either by pre- enrollment of at least thirty (30) students or by securing initial capital of at least thirty thousand dollars (\$30,000); and

(3) Demonstrate ability to employ a qualified faculty.

(c) The contract with the state board of education will specify the management and administration of the school, assumption of liability by the school, insurance coverage to be obtained by the school and requirements for financial audits.

(d) The state board of education may conditionally contract with a charter school applicant before the applicant has secured its space, equipment facilities and personnel if the applicant can establish to the board's satisfaction that the contract is necessary to raise its working capital or to perform other start-up functions.

(e) A charter school may determine its own structure of governance. This may include a partnership or cooperative of teachers, a board of citizen trustees, a third-party contract manager or any other form of governance approved by the state board of education.

(f) The charter schools may lease space in buildings housing other public schools as set forth in Section 6.

(g) Termination or non-renewal of a contract by the state board of education will be based only on failure of its students to achieve minimum educational progress, failure of fiscal management, violation of law, or failure to maintain enrollment of at least twenty-five (25) students.

(h) It is the intention of the General Assembly that this Section 4 be liberally interpreted by the state board of education, and any group meeting the criteria set forth in subsection (b) above that petitions the board for creation of a charter school shall be presumed to merit permission to operate a charter school. Similarly, charter schools applying for renewal of their contracts shall be presumed to merit renewal.

SECTION 5. Funding.

(a) The provisions of Chapter 3, Part 3, the Tennessee Education Finance Act of 1977, shall continue to apply to the funding of education services under this act.

(b) State funds will be paid directly to each public school quarterly based on average daily membership under the funding formula. Local school boards will pay local funds to public schools within their boundaries quarterly based on average daily membership at each school, provided that the local school board may retain up to fifteen percent (15%) of local funding for operating needs not specific to any school.

(c) Only state funds shall follow a child to a public school in a district other than the child's home district.

SECTION 6. School Buildings.

(a) Major renovation of existing school buildings and construction of new school buildings are the responsibility of local governments. For this purpose, laws regarding the issuance of school bonds will remain in effect.

(b) The local school board or government will continue to own the existing school buildings. The local school board or government shall enter into lease agreements with each school council, the basic terms of which shall be reasonably consistent throughout the district. Local school boards or governments may reasonably consider a building's condition and size in determining lease terms. Rents shall be set such that, in the aggregate, the local school board or government generates only revenue reasonably sufficient to pay for major maintenance, insurance and debt service on the existing buildings. Rents shall not be used for any other purpose. Leases shall not prohibit a school council from subletting part of the space to other public schools. When a lease is up for renewal, if enrollment has declined such that the space is not fully used, the local school board shall attempt to fully use the space. This may include leasing parts of a building to more than one (1) school, wherein the cafeteria, auditorium, gymnasium or other common space is shared. The local school board or government shall not discriminate against charter schools in leasing excess space.

SECTION 7. Post-Secondary Enrollment Options. Any public school student in grades eleven (11) or twelve (12) may apply to an eligible college or university to enroll in nonsectarian courses during no more than a two (2) year period. The student shall receive high school credits for courses completed. The credits granted shall be equal to the credits offered in a comparable course at the high school if there is such a course. If no comparable course is offered, the state board of education shall determine the credits awarded. Post-secondary institutions may also subsequently award credits for courses completed at that or another post-secondary institution under this plan. The state and the local school board shall pay, at the end of each semester, to the college or university, in the manner set forth in Section 5, the lesser of: (1) actual tuition plus costs of textbooks and fees, or (2) a fraction of the total state and local expenditure for that student, the numerator of which shall be the total number of semester credit hours taken at the college or university and the denominator of which shall be the total number of hours taken by the student in that semester in the public school and the college or university. These payments will be the only payments to be made to the college or university with regard to that student for that semester. Eligible colleges and universities shall include: (1) Tennessee's public post-secondary institutions, or (2) any private, residential, two (2) or four (4) year liberal arts degree granting college or university located in Tennessee. If a student leaves a college or university before completion of the semester, the college or university shall receive payment corresponding to the period of the child's actual enrollment.

SECTION 8. Admissions Criteria.

(a) Public schools may base their admissions decisions only on the following criteria:

- (1) Grade level or age;
- (2) Satisfactory completion of prior grades;
- (3) Specific affinity for a particular subject such as math, science, fine or performing arts, or a foreign language or for the school's teaching method or

learning philosophy; provided, however, that schools may not consider high I.Q., high measures of general achievement or aptitude, or athletic ability; and

(4) Reasonable parental involvement agreements, but such agreements may not be designed to prevent admission of students with working parents and shall not require financial contributions by parents.

(b) Public schools may give priority in their admissions processes to eligible children who:

(1) reside within the local school in which the school is located; or

(2) are returning students or the siblings of current or former students.

(c) If, after giving effect to the admissions criteria and priorities set forth in subsections (a) and (b) above, a school has more eligible applicants than it can accommodate, the LEA in which the school is located will select students for the school by some random means of selection.

(d) Notwithstanding anything herein, schools may consider a student's race and the school's racial balance in making admissions decisions if the school or the LEA is ordered to do so by a court with final jurisdiction.

SECTION 9. Parental Choice. All parents in Tennessee may send their children to any school in the state that admits their children, but all children between the ages of seven (7) and sixteen (16), both inclusive, must be in attendance at some school authorized under this act or at a private school.

SECTION 10. LEA Responsibilities.

(a) All local education agencies existing at the date of enactment of this Act shall remain in existence, although an LEA may elect at any time to merge with another LEA. Members of local school boards and superintendents will continue in their offices, and their successors will be elected or appointed in accordance with existing law. The LEA's will have the following responsibilities:

(1) Providing and setting prices for transportation, accounting, food service, curriculum, textbooks, maintenance and other basic services for those public schools electing to purchase those services and goods from the LEA;

(2) Owning, leasing, and providing major maintenance for existing public school buildings and any school buildings hereafter erected by the county or municipality responsible for construction of school buildings within the district in accordance with Section 18, except that local governments may assume these responsibilities in lieu of the LEA.

(3) Attempting to place teachers who elect to leave or who are asked to leave a school within its boundaries;

(4) Operating the Parent Information Center and the liaison officer program as set forth in Section 15;

(5) Coordinating with other LEA's to effect cross- district school choices as set forth in Section 15;

(6) Providing assistance in placing students not accepted by any of their chosen schools, and, if necessary, placing students in schools as set forth in Section 15;

(7) Distributing school choice application forms and administering the selection process as set forth in Section 15.

SECTION 11. State Board of Education Responsibilities.

(a) In addition to responsibilities set forth in Section 49-1-302, the state board of education will have the following responsibilities:

(1) Design and implement an assessment mechanism that will provide a standard measure of the educational effectiveness of each public school in the core curriculum for use by parents in selecting a school as set forth in Section 17.

(2) Design a final examination in the core curriculum subjects to be taken by 12th grade students. Satisfactory completion of the test shall entitle a student to receive a Tennessee Certificate of Education, which, along with a separately awarded high school diploma, shall signify satisfactory completion of secondary education;

(3) Contract to create charter schools;

(4) Audit the financial records of all LEA's and public schools;

(5) Provide a health insurance and a pension plan for all eligible teachers and LEA and school employees to be funded by contributions from participating employers; and

(6) Verify attendance of children who have received private school scholarships.

(b) The TSSAA will retain responsibility for athletic leagues and playoffs.

SECTION 12. Teacher Requirements.

(a) Any person with a bachelor's degree from an accredited U.S. college or from a foreign college acceptable to the state board of education shall be eligible to teach in any public school in Tennessee. No school council or LEA may require certification as a condition of employment. Teachers shall be employed pursuant to contracts between the individual school council and the teacher. Compensation shall be determined by the council. During the first three (3) years of this plan, (1995/96 - 1997/98) no contract may exceed one (1) year. Beginning in the 1996/97 school year, however, school councils may enter into any contractual arrangement up to five (5) years duration with any teacher or employee.

SECTION 13. Transportation.

(a) Available local and state transportation funds will be transferred to individual schools, allocated on the basis of eligible students as set forth below. Each school will be responsible for arranging transportation for eligible students.

(b) Students required to be eligible for free transportation will include only students eligible for free lunches unless a court of competent jurisdiction shall determine that such a plan is not constitutional, in which case all students will be eligible.

(c) Schools in densely populated districts (greater than one hundred seventy-five (175) persons per square mile) will be responsible for transporting any eligible child living in a five (5) mile radius of the school; in all other areas, a school must transport its eligible students living within a ten (10) mile radius, provided, however, that each school must also transport its eligible students living beyond the applicable five (5) or ten (10) mile radius up to the boundaries of the district if it is the nearest school that admitted the student or that would have admitted the student if he had applied.

(d) A school, local school board or a local governmental body may choose to provide free transportation for greater distances or for all students, regardless of income. Funding for district-wide free transportation shall be provided by the school, LEA or government that determines to provide it.

SECTION 14. Court-Ordered Busing. In districts operating under federal court order or agency approved busing plan, parental selection of schools shall be implemented only to the extent permitted by the court or agency that imposed or approved the plan. Within ninety (90) days of the effective date of this legislation, any affected LEA shall appear before the court that imposed or agency that approved the busing plan to seek a decree by which the parental choice plan contemplated by this act may be implemented, and the LEA shall appeal or seek redress of any unfavorable decision to or before a court of competent jurisdiction.

SECTION 15. Parent Information Center; School Choice Procedures.

(a) Each local school board shall establish Parent Information Centers (PIC's), which will make available information about each school for use by parents and shall serve to receive and process school selection forms. PIC's may be located in libraries, courthouses, government offices, schools or other convenient locations and may be

staffed, unstaffed or periodically staffed. There shall be at least one PIC per twenty-five thousand (25,000) population in a school district.

(b) Each public school shall be required to provide certain information listed below and may provide additional information as desired. Private schools may also provide information to be made available to parents at PIC s.

(1) Instructional information

(A) Mission statement, including educational philosophy and instructional priorities;

(B) Curriculum offerings and instructional materials used;

(C) Number of instructional days and school calendar;

(D) Student scores on statewide assessments, aggregated by class and by school;

(E) Education and work experience of personnel;

(F) Average student attendance rates;

(G) Average teacher attendance rates;

(H) Class sizes;

(I) Total enrollment;

(J) Colleges, universities or schools which high school graduates thereafter attended in prior three (3) years, including the number of at each;

(K) Graduation and drop-out rates;

(L) Percentage of students taking the SAT or ACT in prior three (3) years and average scores;

(M) Admissions criteria;

(N) Statement regarding expectations requirements of parental involvement;

(O) Discipline and expulsion policies; and

(P) Non-discrimination policies.

(2) Financial Information

(A) Proof of financial responsibility, copies of any audits; and

(B) Receipts and expenditures, by source, with budgeted amounts.

(c) The local school board shall also establish a system of liaisons who shall be available to assist parents in the selection of schools. The liaisons may be either paid employees or trained volunteers. Any parent may request the assistance of a liaison. In addition, local school boards may use liaisons to improve the school selection process and information flow among targeted population groups or neighborhoods.

(d) The local school board will establish procedures by which parents may select their children's schools in accordance with the following provisions. At the Parent Information Center, parents will indicate, in descending order of preference, as many as five (5) schools that they choose for their child to attend. Schools with admission criteria may require that the necessary student information be provided either directly to the school or through the Parent Information Center. Schools will notify the local school board as to which students meet their eligibility requirements and which shall receive priority status. The local school board will process the applications giving effect to any priority status, conduct such random selection processes as are necessary, and notify schools and parents of enrollments. Parents of students not enrolled at any of their initially chosen schools will automatically be assigned a liaison officer by the district to assist in choosing an appropriate school. If necessary, the local school board will conduct a second and a third round of selections in order to place students. At the completion of this process, students not enrolled at a school chosen by the parent will be assigned to a school by the local school board. All public schools will be required to enroll their fair share of such students. All students will be enrolled in a school and no student will be forced to travel beyond his district.

(e) Parents may choose a school outside their district of residency at a Parent Information Center within their district of residency. The LEA in the district of residency will be responsible for coordinating with the LEA in which the chosen school is located in order to effect the parents' choice.

(f) The state board of education shall establish uniform statewide timetables for the school selection process in order to facilitate inter-district choices.

(g) Parents may remove their children from a school at any time during the school year, provided that they first secure a place for the child at another school. Mid-year enrollments will be coordinated directly by the parents with the school.

(h) Schools must make available to the public a list of students given priority status in the enrollment process along with the related reasons. If asked by parents, a school must inform the parents as to whether their child was deemed eligible for admission, and if not, the reasons why.

SECTION 16. Advisory Program.

(a) The state board of education shall establish an advisory program which will assist individual schools as they establish and maintain autonomous operation. The program will establish model bylaws for school councils and provide information to schools regarding budgeting and financial management, requirements of and process for establishing 501(c)3 status, sources of instructional and other school materials, sample employment contracts and personnel policy manuals, property and casualty insurance, pension and health insurance and such other information as the board deems desirable.

(b) The program shall include a special, intensive training and advisory program that shall be available to any school in which enrollment declines by more than twenty percent (20%) from its peak. Such program shall not be designed to provide additional financial resources to schools where enrollment is declining, but rather to suggest changes which will help the school operate more effectively and attract more students.

SECTION 17. Value-Added Assessment Program.

(a) The state board of education shall establish a system for value-added assessment of educational progress at all Tennessee public schools. The results of these assessments shall be made available to parents at Parent Information Centers.

(b) Value-added assessment implies:

(1) A statistical system for educational outcome assessment that uses measures of student learning to enable the estimation of teacher and school statistical distributions.

(2) The statistical system will use available and appropriate data as input to account for differences in prior student attainment, such that the impact that teacher and school have on the educational progress of students may be estimated on a student attainment constant basis. The impact that a teacher or school has on the progress, or lack of progress, in educational advancement or learning of a student is referred to hereafter as the "effect" of the teacher or school on the educational progress of students.

(3) The statistical system shall have the capability of providing mixed model methodologies that provide for best linear unbiased prediction for the teacher and school effects on the educational progress of students. It must have the capability of adequately providing these estimates for the traditional classroom (one teacher teaching multiple subjects to the same group of students) as well as team taught groups of students or other teaching situations, as appropriate.

(4) The metrics chosen to measure student learning must be linear scales covering the total range of topics covered in the approved curriculum to minimize ceiling and floor effects. These metrics should have strong relationship to the core curriculum for the applicable grade level and subject.

(c) Beginning on July 1, 1996, and annually thereafter, data from the TCAP tests, or their future replacements, will be used to provide an estimate of the statistical

distribution of school effects on the educational progress of students for grades three (3) through eight (8).

(d) Beginning on July 1, 1997, and annually thereafter, data from the TCAP tests, or their future replacements, will be used to provide an estimate of the statistical distribution of teacher effects on the educational progress of students for grades three (3) through eight (8). A specific teacher's effect on the educational progress of his students shall not be used as part of a formal personnel evaluation until data from three (3) complete academic years are obtained. Teacher effect data shall not be retained for use in evaluations for more than the most recent five (5) years. A student must have been present for one hundred fifty (150) days of classroom instruction per year or seventy-five (75) days of classroom instruction per semester before that student's record is attributable to a specific teacher. Records from any student who is eligible for special education services under federal law will not be used as part of the value-added assessment.

(e) Beginning in 1997, the development of subject matter tests will be initiated to measure performance of high school students in all academic subjects for which appropriate metrics can be obtained from group administered tests. These tests must reflect the principal subject matter commonly taught in the core curriculum in Tennessee public schools. As soon as valid tests have been developed, the testing of students will be initiated to provide for value-added assessment. Value-added assessment shall be initiated in the core curriculum within secondary schools by the 2001/2002 school year, and continued annually thereafter.

(f) All tests used shall be fresh, non-redundant equivalent tests, replaced each year.

(g) As used in this Section, "mixed model methodologies which provided for best linear unbiased prediction" or similar language setting forth the methodology used

for evaluating measured progress of students, teachers, schools, or school districts, shall have the meaning and be interpreted as set forth in the following references:

(1) "A Unified Approach to Mixed Linear Models", McLean, Sanders, and Stroup; The American Statistician, February 1991; Vol. 45, No. 1.

(2) "Extension of the Gauss-Markov Theorem to Include the Estimation of Random Effects", Harville; The Annals of Statistics, 1976; Vol. 4, No. 2, 384-395.

(3) "Analysis of Variance in the Mixed Model: Higher Level, Nonhomogeneous, and Random Regressions", Henderson; Biometrics, September 1982; No. 38, 623-640.

(4) "Maximum Likelihood Approaches to Variance Component Estimation and to Related Problems", Harville; Journal of the American Statistical Association, July 1977; Vol. 72, No. 358.

(5) "Approximations for Standard Errors of Estimators of Fixed and Random Effects in Mixed Linear Models", Kackar and Harville; Journal of the American Statistical Association, December 1984; Vol. 79, No. 388.

(6) "The Analysis of Unbalanced Linear Models with Variance Components", Engel; Statistica Neerlandica, 1990; Vol. 44, No. 4.

(h) Any person found to have not followed security guidelines for administration of the TCAP test, or a successor test, including making or distributing unauthorized copies of the test, altering a grade or answer sheet, providing copies of answers or test questions, or otherwise compromising the integrity of the testing process shall be subject to disqualification by the state board of education from eligibility for employment at a Tennessee public school.

SECTION 18. Repealer. Tennessee Code Annotated, Title 49, Chapter 1, Part 1; Section 49-1-201(c)(4), (16), (17), (21) and (24); Section 49-1-202; Section 49-1-203; Section 49-1-207; Section 49-1-302; Sections 49-1-306 -- 49-1-310; Title 49, Chapter 1, Part 4; Title 49, Chapter 1, Part 5; Section 49-2-104; Section 49-2-105; Section 49-2-106; Sections 49-2-108 --

49-2-114; Title 49, Chapter 2, Parts 4, 10, 11, 12, and 13; Title 49, Chapter 3, Part 4; Title 49, Chapter 5, Parts 1, 2, 3, 4, 5, 6, 7, 8, 50, 51, 52, 53, 54, 55, 56, and 57; Title 49, Chapter 6; and Section 49-11-104, are repealed.

SECTION 19. LEA Duties. Tennessee Code Annotated, Section 49-10-101, is amended by adding a new subsection, as follows:

(d) All services or duties required to be performed under this chapter by local education agencies shall be performed by the individual schools at which the eligible students are in attendance, unless the individual school contracts with the local education agency to perform such duties or services.

SECTION 20. Tennessee Code Annotated, Section 49-2-301, is amended by adding a new subsection, as follows:

(R) The powers and duties of the superintendent shall apply only in schools that, under the provisions of this act, choose to remain under the superintendent's jurisdiction and then only to the extent chosen by the school.

SECTION 21. Language Changes. The executive secretary of the Tennessee Code Commission is authorized to make any necessary language or reference changes in the Tennessee Code Annotated required by enactment of this bill.

SECTION 22. Home Schools. Home schools may continue to be operated as provided by Section 49-6-3050, Tennessee Code Annotated, and relevant regulations.

SECTION 23. Savings Provision. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 24. Effective Date. This act shall take effect July 1, 1995, the public welfare requiring it.

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